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SENATE BILL 1265 By  
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HOUSE BILL 1476  
By Maddox

AN ACT to amend Tennessee Code Annotated, Title 36 and  
Section 37-1-607 relative to the abandonment of infants.

WHEREAS, the general assembly recognizes the growing instances of infant abandonment throughout the United States and the state of Tennessee, and the detrimental effect infant abandonment has on children and families in the state of Tennessee. The general assembly finds there is a compelling need to provide a system in which parents and legal guardians can safely relinquish custody of unwanted newborns.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 36, is amended by adding Sections 2 through 18 as a new chapter hereto.

SECTION 2. As used in this act, unless the context otherwise requires:

- (1) "Department" means the department of children's services; and
- (2) "Professional Medical Community" means an individual or institution as defined in Section 68-140-202.

SECTION 3. A member of the professional medical community, as defined in Section 68-140-202(a) or a law enforcement officer, as defined in Section 36-1-106(a)(21) shall, without

court order, take physical possession of an infant, aged thirty (30) days or less, who is voluntarily delivered to such member of the professional medical community or law enforcement officer, by a parent or legal guardian, provided the the circumstances give rise to a reasonable belief that the parent or guardian does not intend to return for the infant and the parent or legal guardian does not express an intent to return for the infant.

SECTION 4. If the infant is surrendered to a law enforcement officer, the officer shall immediately deliver the infant to a hospital. Upon receipt of the infant, an individual member of the professional medical community shall conduct a medical examination of the infant.

SECTION 5. The person surrendering the infant, if a parent, must identify the other parent of the infant, or if a legal guardian, must identify one (1) or both of the infant's parents. The person surrendering the infant does not have to provide his or her own identification.

SECTION 6. Any information obtained by a member of the professional medical community or law enforcement officer concerning the identity of the person surrendering the infant, the infant's parents, or the infant, must be kept confidential and may only be disclosed to the department.

SECTION 7. A member of the professional medical community or law enforcement officer must offer the person leaving the infant information concerning the legal effect of surrendering the infant.

SECTION 8. A member of the professional medical community or law enforcement officer who takes possession of an infant shall perform any act necessary to protect the physical health and safety of the child.

SECTION 9. A member of the professional medical community must attempt to obtain from the parent or legal guardian surrendering the infant, information concerning the infant's background and medical history, including information concerning the use of controlled substances by the infant's parents. The department shall provide an intake form to be used in obtaining this information. If the parent or legal guardian surrendering the infant does not wish

to provide the requested information at the time the parent or legal guardian leaves the infant, the member of the professional medical community or law enforcement officer shall provide the intake form and an addressed, postage pre-paid envelope to the parent or legal guardian and direct them to return the form to the department.

SECTION 10. The member of the professional medical community or law enforcement officer taking possession of the infant pursuant to Section 2 of this act shall, by the close of the first business day after the date the infant was surrendered, notify the department that the member or officer has temporary custody of the infant.

SECTION 11. Upon receipt of notice under Section 3 of this act, the department shall, pursuant to Tennessee Code Annotated, Sections 34-11-103(a) and 37-1-140, immediately assume the care, control, and custody of the child. The department shall assume physical custody of the infant as soon as practicable upon receipt of notice, but no later than twenty-four (24) hours after receiving notice that the infant is ready for discharge from the hospital. The department is not required to initiate a child protective services investigation solely because an infant comes into its custody under this section.

SECTION 12. Immediately after receiving notice from a member of the professional medical community or law enforcement officer, the department must contact the Tennessee bureau of investigation for assistance in assuring that the infant is not a missing infant. The Tennessee bureau of investigation must treat the request as ongoing for a period of thirty (30) days and must contact the department if a missing infant report is received that might relate to the infant.

SECTION 13. If, within fourteen (14) days of the voluntary surrender of the infant, the parent or legal guardian returns to reclaim the infant, the department shall, prior to releasing the infant, verify the identity of the person and conduct an assessment of the person's circumstances and ability to parent. The department shall also in its assessment, discuss

adoption and foster care as alternatives and make a determination as to whether there is a substantial danger of abuse or danger to the physical health of the infant.

SECTION 14. If the department determines that the infant is not in danger of abuse, neglect, or other harm, then the infant shall be released to the parent or legal guardian.

SECTION 15. Within three (3) months of releasing the infant to the parent or legal guardian, the department shall conduct a follow-up investigation to evaluate the circumstances in which the infant resides, the parenting ability of the parent or legal guardian, and to determine whether the infant is a victim of abuse or neglect. If the department finds evidence of abuse or neglect, reasonably suspects that the infant is being abused or neglected, or is notified by any person that the infant is being abused or neglected, it shall notify the child protective team which shall conduct a child protective investigation pursuant to Tennessee Code Annotated Section 37-1-607.

SECTION 16. No member of the professional medical community or law enforcement officer shall be subject to civil, criminal, or administrative liability for accepting the infant and caring for the infant in accordance with any of the provisions of this act, provided the member or officer complies with all provisions of this act. This section does not confer immunity from liability for personal injury, wrongful death, medical malpractice or any harm inflicted upon the infant other than the harm inherent in abandonment.

SECTION 17. No member of the professional medical community or law enforcement officer shall be subject to civil, criminal, or administrative liability for accepting the infant in instances where the infant is older than thirty (30) days or the person surrendering the infant does not have lawful physical custody of the infant, provided that the member or officer acts in the good faith belief that accepting the surrendered infant is in accordance with provisions of this act.

SECTION 18. A parent or legal guardian who leaves an infant with a member of the professional medical community or law enforcement officer shall not be prosecuted for any

criminal offense if the parent or legal guardian acts in full compliance with the provisions of this act.

SECTION 19. This act shall take effect upon becoming a law, the public welfare requiring it.